

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

THOMAS R. RODELLA,

Petitioner,

v.

CV No. 19-275 JB/CG

UNITED STATES OF AMERICA,

Respondent.

ORDER GRANTING MOTION FOR LEAVE TO AMEND § 2255 PETITION

THIS MATTER is before the Court on Petitioner Thomas R. Rodella's *Motion for Leave for Movant to Amend § 2255 Motion and Motion to Accelerate and Give Precedence to this Case* (the "Motion"), (Doc. 13), filed November 12, 2019; the Court's *Order Setting Expedited Briefing*, (Doc. 17), filed November 15, 2019; the United States' *Response to Motion for Leave for Movant to Amend § 2255 Motion and to Accelerate and Give Precedence to this Case* (the "Response"), (Doc. 18), filed November 15, 2019; and Mr. Rodella's *Reply to the United States' Response to Motion for Leave for Movant to Amend § 2255 Motion and Motion to Accelerate and Give Precedence to this Case* (the "Reply"), (Doc. 19), filed November 22, 2019. After reviewing the Motion, the Response, and the Reply, the Court finds the Motion is well-taken and shall be

GRANTED.

In the Motion, Mr. Rodella requests leave to amend his § 2255 Petition based on new United States Supreme Court precedent that may invalidate his conviction and sentence under 18 U.S.C. 924(c)(1)(A)(ii). (Doc. 13 at 2). In addition, Mr. Rodella requests that this case "be accelerated and given precedence" because he is currently serving his sentence under a statute that has now been rendered unconstitutional. *Id.* In

response, the United States does not object to Mr. Rodella's request to amend his § 2255 Petition. (Doc. 18 at 1). The United States only "objects to the request for acceleration and precedence solely on the grounds that the Court is in the best position to manage its own docket." *Id.*

As a result of the United States' concession that Mr. Rodella may amend his § 2255 Petition, the Court finds Mr. Rodella's request shall be **GRANTED**. In addition, having considered the United States' contention that the Court may best mange its own docket, and Mr. Rodella's further request that he be entitled until after December 6, 2019, to file his Amended § 2255 Petition, the Court will set a briefing schedule as follows:

1. Mr. Rodella shall file his Amended § 2255 Petition no later than December 11, 2019;
2. The United States shall file its response to Mr. Rodella's Amended § 2255 Petition no later than December 27, 2019; and
3. Mr. Rodella may file a reply no later than January 3, 2020.

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE